

E-Filed on 12/04/07

DIAMOND MCCARTHY LLP

909 Fannin, Suite 1500
Houston, Texas 77010
Telephone (713) 333-5100
Facsimile (713) 333-5199

Allan B. Diamond, TX State Bar No. 05801800
Email: adiamond@diamondmccarthy.com
Eric D. Madden, TX State Bar No. 24013079
Email: emadden@diamondmccarthy.com

Special Litigation Counsel for USACM Liquidating Trust

LEWIS AND ROCA LLP

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Telephone (702) 949-8320
Facsimile (702) 949-8321

Susan M. Freeman, AZ State Bar No. 004199
Email: sfreeman@lrlaw.com
Rob Charles, NV State Bar No. 006593
Email: rcharles@lrlaw.com

Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING
NATIONAL REAL ESTATE
HOLDINGS, INC. TO PRODUCE
ONE OR MORE
REPRESENTATIVES FOR
EXAMINATION PURSUANT TO
FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring National Real Estate Holdings, Inc. ("NREH") to produce one or more representatives for examination at the office of Esquire Deposition Services, 520 Capitol Mall, Suite 250,

1 Sacramento, California 95814, on a business day no earlier than ten (10) business days
2 after the filing of this Motion and no later than January 15, 2008, or at such other mutually
3 agreeable location, date, and time, and continuing from day to day thereafter until
4 completed.
5

6 This Motion is further explained in the following Memorandum.

7 **Memorandum**

8 The Trust seeks information concerning various transactions in which payments
9 were received by NREH on loans originated by USACM, the other debtors in the above-
10 captioned cases (together with USACM, the “Debtors”), and the Debtors’ affiliates,
11 subsidiaries, parents, or otherwise related entities. In a number of loan transactions,
12 NREH received substantial payments.
13
14

15 The Trust seeks this information from NREH to assist in the collection of the assets
16 and the investigation of the liabilities of the Debtors.

17 The requested discovery from NREH is within the scope of examination permitted
18 under Bankruptcy Rule 2004, which includes:
19

20 [t]he acts, conduct, or property or . . . the liabilities and financial condition
21 of the debtor, or . . . any matter which may affect the administration of the
22 debtor’s estate, or to the debtor’s right to a discharge. In a . . .
23 reorganization case under chapter 11 of the Code, . . . the examination may
24 also relate to the operation of any business and the desirability of its
25 continuance, the source of any money or property acquired or to be acquired
26 by the debtor for purposes of consummating a plan and the consideration
given or offered therefore, and any other matter relevant to the case or to the
formulation of a plan.¹

¹ FED.R. BANKR. P. 2004(b).

Conclusion

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: December 4, 2007.

DIAMOND MCCARTHY LLP

LEWIS AND ROCA LLP

By: /s/ Eric D. Madden
Allan B. Diamond, TX 05801800 (pro hac vice)
William T. Reid, IV, TX 00788817 (pro hac vice)
Eric D. Madden, TX 24013079 (pro hac vice)
909 Fannin, Suite 1500
Houston, Texas 77010
(713) 333-5100 (telephone)
(713) 333-5199 (facsimile)

By: /s/ Rob Charles
Susan M. Freeman, AZ 4199 (pro hac vice)
Rob Charles, NV 6593
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996
(702) 949-8320 (telephone)
(702) 949-8321 (facsimile)

*Special Litigation Counsel for
USACM Liquidating Trust*

Counsel for USACM Liquidating Trust